

10/4/2012

James R. Glidewell Dental Ceramics, Inc. v. Keating Dental Arts, Inc.
Confidential-Attorneys' Eyes Only-Subject to Protective Order

Robin Carden

Page 1

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

JAMES R. GLIDEWELL DENTAL CERAMICS,)

INC., DBA GLIDEWELL LABORATORIES,)

)

PLAINTIFF/COUNTER-DEFENDANT,)CASE NO.

)SACV11-01309-DOC

v.) (ANx)

)

KEATING DENTAL ARTS, INC.,)

)

DEFENDANT/COUNTER-PLAINTIFF.)

)

CONFIDENTIAL-ATTORNEYS' EYES ONLY

SUBJECT TO PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF ROBIN CARDEN

TAKEN THURSDAY, OCTOBER 4, 2012

IRVINE, CALIFORNIA

Reported by Audra E. Cramer, CSR No. 9901

DIGITAL EVIDENCE GROUP

1726 M Street NW, Suite 1010

Washington, DC 20036

(202) 232-0646

10/4/2012

James R. Glidewell Dental Ceramics, Inc. v. Keating Dental Arts, Inc.
Confidential-Attorneys' Eyes Only-Subject to Protective Order

Robin Carden

1	VIDEOTAPED DEPOSITION OF ROBIN CARDEN, TAKEN ON BEHALF	1	EXHIBITS (CONTINUED)
2	OF THE DEFENDANT/COUNTER-PLAINTIFF, AT 9:38 A.M.,	2	NO. PAGE DESCRIPTION
3	THURSDAY, OCTOBER 4, 2012, AT 2040 MAIN STREET, IRVINE,	2	Exhibit 61 117 U.S. PATENT APPLICATION
4	CALIFORNIA, BEFORE AUDRA E. CRAMER, CSR NO. 9901,		PUBLICATION NO. 20120148988
5	PURSUANT TO NOTICE.	3	Exhibit 62 122 U.S. PATENT APPLICATION
6			PUBLICATION NO. 20120156650
7	APPEARANCES OF COUNSEL	4	Exhibit 63 134 SIX-PAGE JUSTIA TRADEMARKS
8	FOR PLAINTIFF/COUNTER-DEFENDANT:		DOCUMENT
9	LEONARD TACHNER PLC	5	Exhibit 64 134 SIX-PAGE JUSTIA TRADEMARKS
10	BY: LEONARD TACHNER, ESQUIRE		DOCUMENT
11	17961 SKY PARK CIRCLE	6	Exhibit 65 153 BRUXZIR MANUFACTURING
	SUITE 38-E		SNAPSHOT BATES GL-109 THRU
12	IRVINE, CALIFORNIA 92614-6364	7	122
	(949) 752-8525		Exhibit 66 157 44-PAGE GLIDEWELL
13	ltachner@aol.com	8	PRESENTATION
14		9	Exhibit 67 170 DOCUMENT BATES KDA-2222
	FOR DEFENDANT/COUNTER-PLAINTIFF:	10	THRU 2226
15	KNOBBE MARTENS OLSON & BEAR LLP	11	Exhibit 68 173 ARTICLE BATES KDA-2037 THRU
	BY: DAVID G. JANKOWSKI, ESQUIRE	12	2039
16	RUSTIN MANGUM, ESQUIRE	13	Exhibit 69 177 ONE-PAGE DOCUMENT BATES
	2040 MAIN STREET	14	GL-124
17	14TH FLOOR	15	Exhibit 70 179 TWO-PAGE DOCUMENT BATES
	IRVINE, CALIFORNIA 92614	16	GL-170 PAGE 1 OF 2 AND PAGE
18	(949) 760-0404	17	2 OF 2
	david.jankowski@knobbe.com	18	Exhibit 23 187 PLAINTIFF'S ANSWERS TO
19	rustin.mangum@knobbe.com	19	DEFENDANT'S FIRST SET OF
20		20	INTERROGATORIES
21	ALSO PRESENT:	21	Exhibit 10 239 SIX-PAGE AUTHORIZED LABS
22	CHUCK GOSWITZ, VIDEOGRAPHER	22	DOCUMENT

Page 2

Page 4

1	I N D E X	1	EXHIBITS (CONTINUED)
2	WITNESS	2	NO. PAGE DESCRIPTION
3	ROBIN CARDEN	3	Exhibit 18 244 ONE-PAGE DOCUMENT BATES
4		4	GL-199
5	EXAMINATION PAGE	5	Exhibit 45 252 TWO-PAGE DOCUMENT BATES
6	MR. JANKOWSKI 7	6	KDA-002770 THRU 2771
	(P.M. SESSION) 97	7	Exhibit 47 259 DANI DENTAL ONE-PAGE
7			DOCUMENT BATES KDA-002758
8	E X H I B I T S	9	Exhibit 46 263 TWO-PAGE MINNESOTA RX FORM
9	NO. PAGE DESCRIPTION	10	KDA-002832 THRU 2833
10	Exhibit 51 14 KEATING DENTAL ARTS INC.'S	11	Exhibit 48 265 FIVE-PAGE CONTROL OF
	DEPOSITION NOTICE OF ROBIN	12	RECORDS DOCUMENT BATES
11	CARDEN	13	GL-226
	Exhibit 52 25 U.S. PATENT NO. 5,340,107	14	Exhibit 50 267 PLAINTIFF'S INITIAL
12	Exhibit 53 25 U.S. PATENT NO. 4,954,080	15	DISCLOSURES UNDER FRCP RULE
	Exhibit 54 41 U.S. PATENT NO. 5,895,696	16	26(A)(1)(A)
13	Exhibit 55 48 U.S. PATENT NO. 6,884,181	17	Exhibit 35 272 12-PAGE GLIDEWELL
	Exhibit 56 49 U.S. PATENT NO. 7,108,830	18	LABORATORIES ORDER FORM
14	Exhibit 57 58 TWO-PAGE PRINTOUT (FRONT	19	
	AND BACK) FROM COMPOSITES	20	
15	WORLD	21	
	Exhibit 58 63 THREE-PAGE ARTICLE "TALON	22	
16	RECEIVES ANOTHER PATENT FOR		
	METAL MATRIX FABRICATION"		
17	Exhibit 36 78 GLIDEWELL LABORATORIES ORG		
18	CHART		
19	Exhibit 59 109 U.S. PATENT APPLICATION		
20	PUBLICATION NO. 20090115084		
21	Exhibit 60 116 U.S. PATENT APPLICATION		
22	PUBLICATION NO. 20110269618		

Page 3

Page 5

Pages 2 to 5

10/4/2012

James R. Glidewell Dental Ceramics, Inc. v. Keating Dental Arts, Inc.
Confidential-Attorneys' Eyes Only-Subject to Protective Order

Robin Carden

1 have prepared this patent application; correct?

2 A. Yes.

3 Q. And then with an understanding that you were

4 continuing to work on it, and the CIP application is

5 addressing the fact that Glidewell is continuing to make

6 progress on the processes; is that fair?

7 A. What's the question?

8 Q. That the CIP application is later in time and

9 addresses this material plus improvements that were made

10 to the method.

11 A. Yes.

12 MR. TACHNER: We're still under confidentiality

13 here on that question?

14 MR. JANKOWSKI: Sure, sure.

15 MR. TACHNER: Would the court reporter note

16 that, please?

17 BY MR. JANKOWSKI:

18 Q. Do you know when Mr. Moon stopped working with

19 Glidewell?

20 A. Yes.

21 Q. When was that?

22 A. When? Approximately -- sometime in 2010.

Page 114

1 Q. Do you have an understanding for why he left

2 the employment of Glidewell?

3 A. Yes. He wasn't doing his job. I fired him.

4 Q. And at that point you would be firing him,

5 because at that point you were now working for Glidewell

6 and he was working underneath you?

7 A. Correct.

8 Q. One thing I notice in Exhibit 59 is that the

9 correspondence address on the application is

10 Leonard Tachner. Do you see that?

11 A. Yes.

12 Q. That's Mr. Tachner who's present at this

13 deposition; correct?

14 A. Yes.

15 Q. Now, you had been working with Mr. Tachner on

16 intellectual property matters for a long time --

17 A. Yes.

18 Q. -- by this point; correct?

19 A. Yes.

20 Q. Did you introduce Mr. Tachner to the Glidewell

21 people?

22 A. Yes.

Page 115

1 Q. I notice that Mr. Tachner's name shows up as an

2 attorney on some of your early patents.

3 A. Yeah, yeah.

4 Q. All the way back to Ceradyne in fact; correct?

5 A. Yes, uh-huh. Jim Glidewell asked me who's the

6 best in the area for advanced materials and ceramics,

7 and I told him Leonard.

8 MR. JANKOWSKI: I'll have the court reporter

9 mark as Exhibit 60 a published U.S. patent application.

10 It's Publication No. 20110269618.

11 (Whereupon, Exhibit 60 was marked

12 for identification.)

13 BY MR. JANKOWSKI:

14 Q. Mr. Carden, do you recognize Exhibit 60?

15 A. Yes, I do.

16 Q. This is another patent application that's been

17 filed by Glidewell; correct?

18 A. Yes, it has, but I might note, I think this has

19 turned into an actual patent now.

20 Q. So what we have in front of us is an

21 application, but you believe this has actually matured

22 and issued as a U.S. patent?

Page 116

1 A. Yes.

2 Q. And you're a named inventor on what's shown as

3 Exhibit 60; correct?

4 A. Yes.

5 Q. Filing for patents on the work that you're

6 doing with Glidewell is important for the same business

7 reasons we were talking about previously when you were

8 doing work with Ceradyne and with Alyn Corporation and

9 with --

10 A. Talon.

11 Q. And Talon; right?

12 A. Yes.

13 MR. JANKOWSKI: I'll have the court reporter

14 mark as Exhibit 61 a published U.S. patent application.

15 This is Publication No. 20120148988.

16 (Whereupon, Exhibit 61 was marked

17 for identification.)

18 BY MR. JANKOWSKI:

19 Q. Mr. Carden, do you recognize Exhibit 61?

20 A. Yes, I do.

21 Q. And this is another patent application filed by

22 Glidewell; correct?

Page 117

Pages 114 to 117

10/4/2012

James R. Glidewell Dental Ceramics, Inc. v. Keating Dental Arts, Inc.
Confidential-Attorneys' Eyes Only-Subject to Protective Order

Robin Carden

<p>1 BruxZir with a Z material. There's a specialized 2 machine that has been invented for that. It's been 3 called -- it's called a Willy-Tec machine, W-i-l-l-y, 4 dash, T-e-c, I think it is, without a K. It's a C, I 5 think.</p> <p>6 And that mimics the actual motion of the teeth 7 and -- against another body. Then after that's done, we 8 may run 1.2 million cycles and then go ahead and pull 9 the sample out and let's see what it's done. So we're 10 down to measuring in nanometers of wear and so forth, 11 but...</p> <p>12 Q. So you're quickly simulating somebody living 13 and chewing for years?</p> <p>14 A. Yeah, yeah. And I wasn't too concerned about 15 the wear of the zirconia material, because I worked with 16 it for so much, but again, the people that attacked us 17 were rival companies. They attacked very quickly 18 because they had a sense of steels and metals, and when 19 you have something that's very hard -- or very strong, 20 let's say, very strong metal, the hardness follows with 21 it. You have a soft material in a metal like a lead or 22 let's say the aluminum that's on like a beach chair.</p> <p style="text-align: right;">Page 130</p>	<p>1 background --</p> <p>2 A. Right.</p> <p>3 Q. -- in intellectual property. So were you as a 4 member of the brain trust somebody who they looked to, 5 to provide guidance --</p> <p>6 A. I'm the guy.</p> <p>7 Q. Pin intellectual property?</p> <p>8 A. Keith controls the patents. I review all of 9 the patents. Any patent that goes through, I'll review 10 it and do -- formally talk with the attorney, which is 11 mostly Leonard, and review that, the examiner's 12 feedback, and then make any adjustments, and go back and 13 forth and go from there on all the patents.</p> <p>14 Q. In fact, you're a named inventor on how many 15 patents is it now? Over 30?</p> <p>16 A. I think close to about that, yeah. I think -- 17 I'm not sure -- I don't have the right number. You have 18 to ask Leonard. I'm not sure.</p> <p>19 Q. But it's a lot of patents?</p> <p>20 A. It's a lot, yeah. It's a lot of stuff.</p> <p>21 Q. And as we were talking about this morning, 22 you've been dealing with patents since right out of</p> <p style="text-align: right;">Page 132</p>
<p>1 You know, you break those real quick. They're soft. 2 But it's different in ceramics; it's very 3 different. You can have a diamond that's very, very 4 hard, hardest material known. Does it have high 5 flexural strength? No, not at all. And then also 6 materials that have high fracture toughness, K1C, are 7 usually softer. So in this case -- do take lead. Lead 8 is soft, but if you dropped a big -- you know, five 9 pounds of lead off the building and threw it over with, 10 it's not going to break at the end. So I knew that this 11 would be a great material for the mouth if done 12 correctly.</p> <p>13 Q. In fact, the testing to date has been very 14 positive?</p> <p>15 A. Very, very positive. There's a huge article, a 16 two-year release, that it's the only material out of, I 17 think Rella Christensen said, almost 98 different types 18 of material that has survived chipping and wearing. So 19 we got just stellar, stellar reports. That was good.</p> <p>20 Q. Now, one of the roles I'm curious about that 21 you could have been playing back in 2009 was providing 22 guidance on intellectual property matters, given your</p> <p style="text-align: right;">Page 131</p>	<p>1 college almost at Ceradyne?</p> <p>2 A. Yeah, right away. I've been thrown in the ring 3 and just started following it and also got formal 4 training on patents and so forth.</p> <p>5 Q. When you say "formal training," what do you 6 mean by that?</p> <p>7 A. Classes that I went to. I went to a couple of 8 classes, two with Ceradyne, and then I took some classes 9 on my own, which -- looking at the valuation of a 10 patent, how to write a patent, things like that.</p> <p>11 Q. And who was giving the class?</p> <p>12 A. Some of the classes were IP systems. You know, 13 you're going through and you get these things through 14 your e-mails a couple times, "Hey, patents IP." Or 15 ceramics. I know one was from ceramic -- was in the 16 ceramic industry, I think, on patents, and we took it. 17 I think one time, actually, Leonard taught some stuff a 18 couple days to us at Ceradyne also.</p> <p>19 Q. Oh, Mr. Tachner spoke to you at Ceradyne?</p> <p>20 A. Yeah, about controlling your work through books 21 and about when the patents -- and the patent laws change 22 all the time. So what was taught back then is</p> <p style="text-align: right;">Page 133</p>

Pages 130 to 133

10/4/2012

James R. Glidewell Dental Ceramics, Inc. v. Keating Dental Arts, Inc.
Confidential-Attorneys' Eyes Only-Subject to Protective Order

Robin Carden

<p>1 completely different today --</p> <p>2 Q. Sure. Sure.</p> <p>3 A. -- about timing and so forth.</p> <p>4 MR. JANKOWSKI: Next I'd like to have the</p> <p>5 court reporter mark the next two exhibits. First,</p> <p>6 Exhibit 63 is a printout from justiatrademarks.com, and</p> <p>7 it is associated with the trademark Talbor -- I'm</p> <p>8 sorry -- the trademark Boralyn.</p> <p>9 (Whereupon, Exhibit 63 was marked</p> <p>10 for identification.)</p> <p>11 MR. JANKOWSKI: Then Exhibit 64 is also from</p> <p>12 Justia Trademarks, and it is associated with the</p> <p>13 trademark Talbor.</p> <p>14 (Whereupon, Exhibit 64 was marked</p> <p>15 for identification.)</p> <p>16 BY MR. JANKOWSKI:</p> <p>17 Q. Mr. Carden, if you could briefly look at</p> <p>18 Exhibits 63 and 64.</p> <p>19 A. Yeas, uh-huh.</p> <p>20 Q. You recognize the subject matter anyway of</p> <p>21 Exhibits 63 and 64; correct?</p> <p>22 A. Yes.</p> <p style="text-align: right;">Page 134</p>	<p>1 as well. At least it shows up in --</p> <p>2 A. Yeah.</p> <p>3 Q. Has Mr. Tachner assisted you with prosecution</p> <p>4 of trademarks for Alyn Corporation and Talon</p> <p>5 Corporation [sic]?</p> <p>6 A. Yes, he was one of a couple of firms, yes, with</p> <p>7 Alyn Corporation, yes. There's other firms.</p> <p>8 Coopers Dunham was another one. So...</p> <p>9 Q. So with that history in mind, fast-forwarding</p> <p>10 into 2009 with the release of the BruxZir with a Z</p> <p>11 product, did the brain trust turn to you also on the</p> <p>12 question of a brand name and protection of the brand</p> <p>13 name with trademarking and the like?</p> <p>14 A. Nope. No.</p> <p>15 Q. They did not consult with you at all?</p> <p>16 A. No.</p> <p>17 Q. Is that a little unusual? Do you have a sense</p> <p>18 for why --</p> <p>19 A. You know, it's not -- I'm a research and</p> <p>20 development material specialist. I do not know how</p> <p>21 brands, you know, in the dental industry associate with</p> <p>22 names. And so it's a whole different industry, and I</p> <p style="text-align: right;">Page 136</p>
<p>1 Q. And these are printouts from a website</p> <p>2 associated with the trademarks that I think we were</p> <p>3 talking about this morning; associated with the MMC</p> <p>4 products associated with your companies Alyn Corporation</p> <p>5 and Talon Corporation [sic]; correct?</p> <p>6 A. Uh-huh, yes.</p> <p>7 Q. What was your connection in developing these</p> <p>8 brand names for the corporations there?</p> <p>9 A. Well, you can see the first one, Boralyn, has</p> <p>10 my name in it. So we took my middle name, and we</p> <p>11 added -- most of the metal matrix composites that we</p> <p>12 were working with had boron carbide in it, so we put one</p> <p>13 and two together, and we came up with the Boralyn,</p> <p>14 100 percent my idea.</p> <p>15 The second one, Talbor, we have --</p> <p>16 Talon Composites was the name of the company, which I</p> <p>17 came up with again, you know, boron carbide. So we had</p> <p>18 the name of the company, Talon Composites, "Tal," and</p> <p>19 then "bor," again for the boron carbide. So that was</p> <p>20 100 percent my idea also.</p> <p>21 Q. I did notice like in each of these,</p> <p>22 Mr. Tachner's name is associated with these applications</p> <p style="text-align: right;">Page 135</p>	<p>1 was glad that they took it, you know. They might have</p> <p>2 said something to me in the hallway, "Hey, what do you</p> <p>3 think of this, BruxZir with a Z?" or something like</p> <p>4 that, but nothing ever -- anything in writing to me.</p> <p>5 Q. Do you recall them asking your opinion of the</p> <p>6 name or any names?</p> <p>7 A. They might have. You know, they might have,</p> <p>8 but I wasn't involved at all. I just wasn't involved.</p> <p>9 Q. Were you interested at all? Were you curious,</p> <p>10 or did you want to --</p> <p>11 A. Oh, I was curious, yeah. I spent a lot of time</p> <p>12 into it, and, you know -- just interested. Not</p> <p>13 interested adding in adding my 2 percent, but interested</p> <p>14 in the outcome. So...</p> <p>15 Q. Do you have an understanding for when the name</p> <p>16 BruxZir with a Z was chosen?</p> <p>17 A. No.</p> <p>18 Q. Do you have any understanding of who came up</p> <p>19 with the name BruxZir with a Z?</p> <p>20 A. I heard brief talks at lunch and so forth maybe</p> <p>21 a couple years down the line, say around 2011 or</p> <p>22 something like that, when they were talking, and they</p> <p style="text-align: right;">Page 137</p>

Pages 134 to 137

10/4/2012

James R. Glidewell Dental Ceramics, Inc. v. Keating Dental Arts, Inc.
Confidential-Attorneys' Eyes Only-Subject to Protective Order

Robin Carden

Page 279

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.
3

4 I, AUDRA E. CRAMER, CSR No. 9901, in and for the
State of California, do hereby certify:

5 That, prior to being examined, the witness named
in the foregoing deposition was by me duly sworn to
6 testify the truth, the whole truth and nothing but the
truth;

7 That said deposition was taken down by me in
shorthand at the time and place therein named, and
8 thereafter reduced to typewriting under my direction,
9 and the same is a true, correct and complete transcript
10 of said proceedings;

11 I further certify that I am not interested in the
12 event of the action.

13 Witness my hand this 17th day of October,
14 2012.

15

16

17


18

19

20

21

22



Certified Shorthand
Reporter for the
State of California